

**Hearing Before the
Subcommittee on Communications
Committee on Commerce, Science and
Transportation
United States Senate**

September 10, 1998

**Testimony of
Conny Kullman
Director General and CEO-Designate
INTELSAT**

Good morning Mr. Chairman, and Members of the Subcommittee. I am Conny Kullman, Director General and CEO-Designate of the International Telecommunications Satellite Organization -- "INTELSAT." I appreciate the opportunity to share with the Subcommittee my perspective on the international telecommunications market and the role of INTELSAT in that competitive market. I would also like to offer some observations on the satellite reform legislation you are considering.

Over the past few months, INTELSAT has made substantial progress towards its goal of significant commercialization and privatization, by taking the historic step of creating a totally separate private company, New Skies Satellites N.V. We will transfer five of our operating satellites and one under construction to New Skies next month. – New Skies will then be in business, competing with INTELSAT and everyone else. And I assure you that this progress will continue. I was elected to the office of Director General on a platform that emphasized commercialization and privatization, and I take my mandate seriously.

Today, around the world, historic barriers to satellite market entry are falling, investment is flowing into satellite communications, and markets are becoming highly competitive. In this dynamic context, there is no pressing need for legislation and certainly no justification for the proposed House bill, which would employ punitive and anticompetitive sanctions and restrictions ostensibly to hasten INTELSAT's inevitable privatization. Such a bill, though good for INTELSAT's competitors, would not be good for competition or consumers. A bill like yours, Mr. Chairman, which establishes goals and objectives for U.S. satellite telecommunications policy without mandating specific elements of reform or sanctions for noncompliance, is far more compatible with the international commitments of the United States and the need to advance INTELSAT privatization

through the negotiating process mandated by the INTELSAT Agreements.

When I take office officially on October 23rd of this year, I will be facing an international telecommunications market very different from that which all of my predecessors encountered. As I describe later in some detail, it is a market characterized by strong existing competition, well-financed plans for extensive new entry, and the continuing rollback of the national access barriers which may have slowed competitive initiatives in the past. It is a market where, increasingly, governments and consumers have opted to rely on market forces, rather than public service commitments, to ensure high quality, low cost services. Yet -- and this is a point which I cannot neglect as the elected leader of an international, intergovernmental organization -- it is a market whose output, telecommunications services, is the lifeline which connects individual nations to the world community.

INTELSAT now is a very different organization from that of even a few years ago. It is an INTELSAT which has completed the successful spin-off of a totally separate company, New Skies Satellites N.V., a Netherlands-based private company. It is an INTELSAT which is examining further privatization on an expedited basis. It is an INTELSAT which recognizes that technological changes, regulatory changes and new consumer demands make it increasingly difficult to continue as a major provider of international satellite capacity under the constraints

embodied in the INTELSAT Agreement.

For these reasons, I expect and welcome that my tenure at INTELSAT will see far-reaching, market-driven change in the organization. I believe that this change must be accomplished through a democratic process which respects the interests of all our members, large and small.

DISPELLING MYTHS ABOUT INTELSAT

While I am committed to change in INTELSAT, I must emphasize that INTELSAT serves its users effectively and efficiently, and through them provides state-of-the-art telecommunications services to consumers around the world. Indeed, because so many myths and misperceptions about INTELSAT have been created, I would like to dispel a few of them right now.

First, many people think that INTELSAT is a government-owned, government-subsidized organization or agency. In fact, INTELSAT is neither. Although several of its Signatories are government-controlled or owned organizations, most of INTELSAT's equity is already held by shareholder-owned companies, and INTELSAT has never received a dime of U.S. taxpayer money or U.S. government guarantees. In fact, since its creation in 1964, INTELSAT has contributed in excess of \$8 billion to the U.S. economy through its purchase of 67

U.S.-built satellites and 42 U.S.-built launch vehicles, and associated hardware and software. In addition, INTELSAT Signatories have contributed another \$5-6 billion to the U.S. economy through the purchase of U.S.-built antennas.

Second, some have said that INTELSAT is a cartel. But in fact, as the FCC recently recognized, INTELSAT does not in any way resemble a cartel. We do not restrict the volume or control prices of services that Signatories sell to others, nor do we prevent Signatories from investing in or using competing international facilities -- including undersea fiber optic cables, or international or regional satellite systems -- that increase output and compete for traffic with INTELSAT. In fact, the majority of INTELSAT Signatories do invest substantially in such alternative systems. Just last week, it was announced that a consortium of telecom operators have signed a \$1.5 billion agreement to build a new fiber optic cable link between Europe and the United States. More than 50 telecom operators, including INTELSAT Signatory owners, signed contracts for the TAT-14 Cable, which will be able to carry about 7.7 million simultaneous telephone calls when it enters in service in 2000. INTELSAT itself is not much different from a cable consortium -- we just operate multipoint-to-multipoint networks rather than point-to-point networks.

Others have said that INTELSAT has some kind of monopoly power in the international satellite industry. In fact, only 20 percent of the international switched

voice market (both satellite and cable) is carried on INTELSAT satellites. If this is a monopolist's market share, then monopoly is not all it is cracked up to be.

Nevertheless, our competitors seek to have the U.S. government tip the scales of competition in their favor. Some support a House bill that would, by legislative fiat, impose crippling anticompetitive sanctions on INTELSAT if it failed to meet unworkable and arbitrary privatization timetables. This bill would favor our competitors, but it would not be good for competition or consumers. INTELSAT, by contrast, continues to strive for a healthy, thriving, and competitive international satellite industry without seeking the assistance of governments to hobble its competitors.

Laying aside these myths about INTELSAT, let me share my perspective on the international telecommunications market, the role of INTELSAT in that market, and the satellite reform legislation you are considering.

THE MARKET FOR SATELLITE SERVICES IS DYNAMIC AND COMPETITIVE

The facts about the state of the international telecommunications market should frame any discussion of reform. Contrary to the assertions of those who find it convenient to attribute market power to INTELSAT, INTELSAT is but one facilities provider and carries a diminishing share of rapidly-increasing international telecommunications traffic.

In fact, INTELSAT's share of international switched voice and private line traffic to and from the United States has plummeted from 70 percent in 1988 to less than 21 percent in 1996. And the organization's share of international full-time transponder leases for video services to and from the U.S. has dropped from approximately 80 percent in 1993 to less than 45 percent in 1996. This figure will drop further when the satellites are transferred to New Skies.

Only a few decades ago, international telecommunications facilities were considered to be bridges between isolated national systems, best operated cooperatively and subject to declining costs as scale increased. In 1962, for example, the Communications Satellite Act set a goal for the United States, and the world: to create a single international commercial satellite system to "serve the communications needs of the United States and other countries, and which will contribute to world peace and understanding." The U.S., as a benefit to the world, provided the satellite technology to make this global communications system a reality. And INTELSAT has achieved remarkable success in meeting this objective, serving all parts of the globe on nondiscriminatory terms and conditions, and linking developed as well as developing countries.

Today, technological advances and the formation of large companies and consortia competing across national borders have superseded the cooperative

model. Private global satellite competitors, regional satellite systems, domestic satellite systems with international extensions and sophisticated fiber-optic cable facilities are all competing to carry international telecommunications traffic. Sophisticated investors are pouring tens of billions of additional dollars into new satellite ventures signaling both confidence in the growth of traffic and the ability of private enterprise to compete in the market.

Today, 192 Western-built commercial geostationary (“GEO”) communications satellites owned by 50 different carriers are orbiting the earth, and another 65 satellites are on order. Only 20 of these satellites, representing 10 percent of total GEO satellites in operation, are INTELSAT satellites. In fact, industry analysts project that between 1996 and 2000, \$28 billion will be invested in non-INTELSAT geostationary commercial communications satellites, and another \$26 billion will be invested in other types of commercial communications satellites - - such as “low earth orbit satellites” or “LEOs” -- that provide similar services.

But this multi-billion dollar flow of investment into satellite ventures tells only part of the facilities story. The past decade has also seen a massive build-out of a global network of trans-oceanic fiber optic cables. These cables, where available, provide an efficient alternative to satellite telecommunications. And they are available in most places.

Taking account of these realities, the Federal Communications Commission recently found -- after extensive study -- that every major international communications route to and from the U.S. enjoyed substantial existing facilities competition, from both commercial satellites and fiber-optic cables, and that all were becoming increasingly competitive. Moreover, the FCC recently rebuffed the notion that INTELSAT enjoys some kind of “special relationship” that allows it to keep competitors out of certain countries. Rather, the FCC found that one of INTELSAT’s leading competitors currently provides full-time video service between the United States and 139 other countries. And the agency found no barriers to entry that would prevent our competitors from serving the rest of the world.

Along with this dramatic growth in private investment, national commitments to telecommunications privatization and competition have increased and national market access barriers have been falling. Last year, 70 countries including the United States signed the World Trade Organization Basic Telecom Agreement, committing to lift restrictions on a broad range of telecommunications services that represent 90 percent of the world’s telecom trade. The United States and 56 other countries agreed to liberalize access for satellite services and facilities, and are moving to implement these commitments. Reflecting the same policy, INTELSAT’s

members have modified procedures under Article 14 of the INTELSAT Agreement to effectively waive any protection from significant economic harm arising from the entry of competing satellite systems.



MARKET FORCES REQUIRE INTELSAT TO CHANGE IN ORDER TO REMAIN VIABLE AND FULFILL ITS PRIME OBJECTIVE

■ As I assess these realities, I begin to view INTELSAT not as a privileged player in the global telecommunications market but as a somewhat handicapped player. INTELSAT faces intense competition, but is constrained in how it may react to that competition. For example, unlike its competitors, INTELSAT must provide connectivity to every point on the globe – even remote areas not served by others. In addition, our charter mandates non-discriminatory access and pricing.

INTELSAT's charter also mandates a decision-making process characterized by consensus. This is a deliberative process that, depending on the issue, involves multilateral negotiations among our 143 Parties and Signatories. Obviously, such a process takes time. In addition, INTELSAT is limited to providing space segment only; we cannot provide vertically integrated solutions that deliver services directly to end users. The net result is one less competitor providing end-to-end solutions.

■ The financial and marketing consultants we employed in the restructuring process advised us that the constraints imposed by the INTELSAT Agreement significantly impair our ability to compete in satellite growth services such as video, multimedia and Internet services. They also warned us that our public switched network traffic will decline under pressure from cable and from changes in the participation of public switched networks in overall traffic. The message is clear: either INTELSAT must change or our role in international telecommunications will shrink dramatically.

But even accepting the necessity of change and movement toward commercialization and privatization, certain non-economic factors must shape the way in which we change. We must continue to fulfill our prime objective: “the provision, on a commercial basis, of the space segment required for international public telecommunications services of high quality and reliability to be available on a non-discriminatory basis to all areas of the world.” We must ensure that our lifeline users remain connected to the rest of the world. And we must address the sensitivities of many smaller countries who want a voice in the process and a role in whatever entity or entities ultimately emerge. We cannot escape the fact that the

INTELSAT system is, for many nations, the sole assurance that they need not depend on another country's political or economic good graces to remain connected with the rest of the world. And, because of INTELSAT, neither do they have to endure an unhealthy dependence upon a single private supplier of satellite communications services.

Consistent with these principles, change is well underway. In April, INTELSAT Members unanimously agreed to implement a partial privatization, by spinning off six satellites to form a new, independent private entity, New Skies Satellites. New Skies will be a vigorous player in the satellite market, benefiting consumers through enhanced competition, and subject to the jurisdiction of regulatory and competition authorities wherever it operates.

The creation of New Skies is just the beginning. The Assembly of Parties instructed the Board of Governors and INTELSAT management to explore further options for the future of INTELSAT and this review was commenced immediately. In fact, the Board of Governors is meeting today here in Washington to consider a timetable and work program for this effort. I have no doubt that INTELSAT will respond on a timely basis to the market forces and Members' interests which point toward the commercialized and privatized future which the Congress and the U.S. Government have made clear is their wish.

■ Yet, I must caution that because of our structure and our mission, the privatization of INTELSAT cannot be achieved overnight. As an engineer, I wish I had a standard blueprint or formula that would allow INTELSAT to compete vigorously in the market while fulfilling all of its historic mission. I cannot offer you a guarantee on when we will find that blueprint, nor the precise elements of the final package. I can offer you my and INTELSAT management's commitment that we are moving towards commercialization and privatization, and that the world around us prevents us from turning back. I also can assure you that, in the interim, we will continue to offer technologically superior, highly efficient, low-cost services around the world on a non-discriminatory basis.

■

PROPOSED LEGISLATION

With that background, let me briefly address the legislative options you are considering to encourage pro-competitive reform.

We do not believe that the U.S. or any other INTELSAT member can or should attempt to mandate the precise outcome of the privatization process by restricting the ability of INTELSAT or its successors to compete. Successful reform is achieved through vigorous negotiation, respect for the framework already established by international agreement, and broad-based consensus-building among Member nations -- not through restrictive mandates and unilateral sanctions. Indeed, the process of privatization would be brought to a crashing halt were multiple Members to lock themselves into preordained, and inevitably conflicting, positions on outcome.

We understand that the Congress may wish to establish goals and objectives for U.S. satellite telecommunications policy for execution by the Executive branch. It is not appropriate for INTELSAT management to tell you what those U.S. objectives should be. However, I would respectfully suggest that any legislation adhere to a few basic principles:

- INTELSAT is an international organization and there is an Agreement that binds the United States and other members that should be honored;
Change should be pursued within the framework of the Agreements through good faith negotiation and respect for the interests of all Members;
The commercialization and privatization process should be allowed to respond to market forces, not to arbitrary timelines or mandatory elements;

In the interim period, the ability of INTELSAT to fulfill its prime objective should not be impaired.

We believe your bill, Mr. Chairman, represents an effort to coordinate U.S. positions in multilateral negotiations without mandating specific elements of reform or threatening restrictive penalties for non-compliance. Other approaches under consideration, however, are fundamentally at odds with the spirit of international consensus and negotiation established by the INTELSAT Agreement. For example, they establish specific, inflexible requirements and timetables for INTELSAT's privatization, dictating everything from the asset composition of successor entities to the make-up of their Boards of Directors. If the specific criteria are not met, the FCC would be required to curtail access to the U.S. market and block INTELSAT's access to new orbital slots. Moreover, certain sanctions such as those dealing with the return of unused orbital resources would be imposed during privatization even if we complied fully with the requirements mandated by other proposals. These restrictions thwart INTELSAT's ability to provide interconnectivity throughout the world. In short, those proposals mandate that INTELSAT privatize faster, and in a specific way, -- "OR ELSE." We believe that approach will be counterproductive and would seriously impede INTELSAT management's efforts to steer the organization to privatization.

■ Mr. Chairman, I submit to you there is no emergency. As I emphasized at the beginning of my testimony, the market for satellite communications services is intensely competitive. INTELSAT is changing for its own benefit, so that it can

survive in this dynamic commercial environment. And in the recent COMSAT non-dominance proceeding, the FCC soundly rejected the argument that INTELSAT's special status created any barriers to market entry.

If INTELSAT does not move quickly enough, we will only hurt ourselves, not our competitors. In fact, any delays would only benefit our competitors, because they are better-positioned than we are to take advantage of growth opportunities.

■ What's more, consumers will not be harmed pending our privatization, because INTELSAT, as currently structured, cannot charge inflated prices. In fact, we are a cooperative that makes space segment available at cost to our Signatories and Direct Access customers. Regardless of the pace or nature of our privatization, anyone providing U.S. services using INTELSAT space segment would be obligated under the Communications Act to charge just, reasonable and non-discriminatory rates and to obtain an FCC license for radio transmission. And under current law, the FCC retains jurisdiction to suspend and investigate tariffs, prescribe just and reasonable charges, and resolve complaints filed against a satellite services provider. Thus, consistent with long-standing FCC practice, the net cost of INTELSAT capacity would be considered in regulatory service tariffs.

For all these reasons, we believe that any approach that combines goals and objectives with punitive measures would be highly counterproductive, and would only harm U.S. consumers and service providers. For example, the House bill would essentially remove INTELSAT from the full-time video services market in the United States. With one less provider and significantly less satellite capacity available, both competition and space segment supply would be diminished, and prices likely would increase. The effect of removing INTELSAT from this market might be analogous to a decision by this Congress to remove General Motors from the U.S. automobile market: the market would still support competition, but supply and consumer choice would both be greatly curtailed.

In addition to the impact on consumers, the punitive measures in the House bill would also, in some cases, violate the letter of U.S. international obligations, and in others, violate the spirit of those international obligations. I believe that all experienced trade negotiators would agree with me that this could cause a spillover of confrontational attitude into other international forums to the detriment of U.S. competitive policy goals.

■ **CONCLUSION**

In conclusion, the global satellite market has changed and INTELSAT is changing with it. We will achieve further commercialization and privatization on a sound economic basis, giving due regard to the needs of less developed countries who rely on INTELSAT for their communications links to the world. In the meantime, we will continue to supply space segment to our Members and other Direct Access customers on a technologically superior, cost-effective basis. We urge the United States to work with its INTELSAT partners through an approach that maintains the spirit of international cooperation and goodwill that the U.S. has engendered throughout its many years of leadership in INTELSAT.

Mr. Chairman, we appreciate your leadership in addressing these questions in a thoughtful, sensitive manner which recognizes the essential prerequisites of reaching international consensus in global satellite communications restructuring.